



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

ELP  
Docket No. 3915-00  
7 December 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you were inducted in the Naval Reserve on 25 August 1943 for two years. The record reflects that you served for only five months without incident. During the six-month period from January to June 1944 you were convicted by two summary courts-martial and received a nonjudicial punishment (NJP). Your offenses consisted of three periods of unauthorized absence (UA) totalling about 29 days, breaking restriction, unauthorized possession of a peacoat belonging to another sailor, unauthorized possession of a station badge, and making a false official statement.

On 9 March 1945, you were reported absent over leave and you remained absent until you were apprehended by military authorities on 15 April 1945. On 9 May 1945, the Chief of Naval Personnel was advised that at the time of your induction, you stated that your date of birth was 31 July 1925 when, in fact, it was 31 July 1927. Your records were subsequently corrected to show your true birth date. Since you were beyond 17 years of

age, appeared to be sufficiently mature for Naval service, and had been on active duty since 25 August 1943, the commanding officer stated that you were being retained despite your underage enlistment as authorized by regulation.

On 15 May 1945 you were convicted by general court-martial of the foregoing 37-day period of UA. You were sentenced to 21 months of confinement, total forfeitures, reduction in rate to apprentice seaman, and a bad conduct discharge.

Three days after your trial, your mother wrote to the Judge Advocate General requesting that you be given a second chance. She stated that prior to your 16th birthday, you ran off with the intent of joining the Navy. Three weeks later you received a draft notice after you claimed that you were 18 years old. She asserted that was the only way you could have gotten into the Navy without a birth certificate or without your parent's consent.

On 19 June 1945 the Acting Secretary of the Navy directed that after seven months of satisfactory service in confinement, the unexecuted portion of the sentence would be held in abeyance with a view to withholding it entirely upon successful completion of a six month probationary period. However, you received two NJPs during the month of September 1945 for a disorderly locker inspection, attempted escape, missing callisthenics, unauthorized possession of passes, failure to have a work card changed, missing noon and evening muster, dirty clothes, failure to shave, and disobedience of orders. Your conduct was considered unsatisfactory and probation was terminated. During the following eight-month period from October 1945 to May 1946, you received a further NJP for insolence to an officer and were convicted by a deck court of causing a cell block disturbance. You received the bad conduct discharge on 31 October 1946.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, underage enlistment, good post-service conduct, letters of reference and certificates of appreciation attesting to your community service with disadvantaged youth, and the fact that it has been 54 years since you were discharged. The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your record of four NJPs and convictions by a deck court, two summary courts-martial, and a general court-martial. The Board noted the aggravating factor that the prolonged period of UA of which you were convicted by general court-martial was terminated only by your apprehension and occurred during a period of wartime. It appears that in response to your mother's plea, the Secretary of the Navy gave you an opportunity to earn a discharge under honorable conditions when he directed a period of probation if you success-

fully completed seven months of satisfactory service while in confinement. However, your conduct was determined to be unsatisfactory when you received two more NJPs after only three months of confinement. Your underage induction/enlistment was not unique during World War II and your retention was authorized since it was discovered after you reached the administrative age for enlistment. Your conviction and discharge were effected in accordance with applicable law and regulation, and the discharge appropriately characterizes your service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director